

along with the opinion of the Attorney General regarding the legality of the rules.

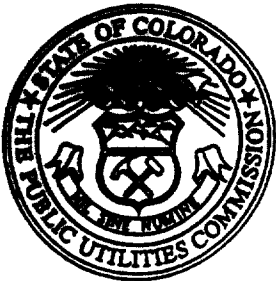
3. The finally adopted rules shall also be filed with the Office of Legislative Legal Services within 20 days following the above-referenced opinion by the Attorney General.

4. The 20-day period provided for in § 40-6-114(1), C.R.S., within which to file applications for rehearing, reargument, or reconsideration begins on the first day following the mailed date of this decision.

5. This Order is effective upon its Mailed Date.

B. ADOPTED IN SPECIAL OPEN MEETING March 29, 1996.

(SEAL)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ROBERT J. HIX

CHRISTINE E. M. ALVAREZ

VINCENT MAJKOWSKI

Commissioners

ATTEST: A TRUE COPY

Bruce N. Smith
Director

THE
PUBLIC UTILITIES COMMISSION
OF THE
STATE OF COLORADO

RULES ON
INTERCONNECTION AND UNBUNDLING

4 CCR 723-39

BASIS, PURPOSE, AND STATUTORY AUTHORITY.

The basis and purpose of these rules is to prescribe the provision of nondiscriminatory access to, and interconnection with, the facilities of the telecommunications providers' networks to any other telecommunications provider offering or seeking to offer telecommunications products or services to the public. These rules also provide for the unbundling of certain telecommunications providers' networks. These rules provide an environment that will actively promote the competitive nature of the telecommunications industry, increase the affordability of telecommunications services, encourage technological advancements, and expand customer choices in the marketplace.

These rules are clear and simple. They can be understood by persons or entities expected to comply with them. They do not conflict with any other provision of law. There are no duplicating or overlapping rules.

These rules are issued pursuant to §§ 40-15-501, et seq. and 40-2-108, C.R.S.

RULE 4 CCR 723-39-1. APPLICABILITY.

These rules are applicable to all certified telecommunications providers that provide telecommunications exchange service in the state of Colorado.

RULE 4 CCR 723-39-2. DEFINITIONS.

The meaning of terms used within these rules shall be consistent with their general usage in the telecommunications industry unless specifically defined by Colorado statute or this rule. As used in these rules, unless context indicates otherwise, the following definitions shall apply:

723-39-2.1 Collocation (physical and virtual): Physical collocation occurs when one telecommunications provider owns interconnection facilities physically located within another telecommunications provider's physical premises. Virtual collocation occurs when one telecommunications provider extends its facilities to a point of interconnection within a reasonably close proximity to, but not physically located within, another telecommunications provider's physical premises. In virtual collocation, the provider requesting collocation ("lessee") may request the type of equipment to be used from another provider who owns the space ("lessor"). In such case, the lessee may own, or lease and maintain the equipment.

723-39-2.2 Common transport link: A communications path (1) used by multiple customers and (2) containing one or more circuits connecting two switching systems in a network.

723-39-2.3 Customer: A person, including a telecommunications provider, who purchases a telecommunications service from a telecommunications provider.

723-39-2.4 Customer network interface: The facilities on or near the customer's premises which allow the customer to interface with the network.

723-39-2.5 Dedicated transport link: A communications path (1) used by one customer and (2) containing one or more circuits connecting two switching systems in a network.

723-39-2.6 Dial tone: An audible tone sent from an automatic switching system to a customer to indicate that the network is ready to receive dial signals.

723-39-2.7 End-user: A person, other than a telecommunication provider, who purchases a telecommunications service from a telecommunications provider.

723-39-2.8 Essential facilities or functions: Those network elements which a telecommunications provider is required to offer on an unbundled basis.

723-39-2.9 Exchange access: The offering of access to telephone exchange services or facilities for the purpose of the origination or termination of telephone toll services.

723-39-2.10 Incumbent telecommunications provider: A telecommunications provider that on February 8, 1996, provided telephone exchange service in Colorado and either (a) on such date was a member of the exchange carrier association or (b) is a person or entity that became a successor or assign of a member described in clause (a). If a provider has held a Certificate of Public Convenience and Necessity to offer local exchange service in Colorado for three years, such provider shall be considered an incumbent unless the Commission determines that such designation is not in the public interest. A telecommunications provider may also be considered an incumbent telecommunication provider if: (a) such provider occupies a position in the market for telephone exchange

service within an area that is comparable to the position occupied by a provider described above; (b) such provider has substantially replaced an incumbent telecommunication provider described above; or, (c) the Commission determines that such designation is in the public interest.

723-39-2.11 Interconnection: The process of providing a seamless connecting link between competing networks for the completion of local traffic that originates in the network of one telecommunications provider and terminates in the network of another telecommunications provider.

723-39-2.12 Loop: The facilities which connect a customer network interface to a main distribution frame, or its equivalent.

723-39-2.13 Network element: A facility or equipment used in the provision of a telecommunications service. Such term also includes features, functions, and capabilities that are provided by means of such facility or equipment, including subscriber numbers, databases, signaling systems, and information sufficient for billing and collection or used in the transmission, routing, or other provision of a telecommunications service.

723-39-2.14 Operational support: A mechanism to facilitate the provision of local exchange services, including but not limited to the taking of service and repair orders, and the exchange of billing data and customer account data in a manner consistent with Federal and Colorado law, through the mutual exchange of information between telecommunications providers. This information may be exchanged in a variety of ways which may include, but are not limited to, electronic interfaces, technical interfaces, or access to databases.

723-39-2.15 Operator systems: Systems that provide for live or mechanized operator functions that assist end-users with call completion and directory assistance.

723-39-2.16 Originating provider: The telecommunications provider that serves the end-user who originates a local call.

723-39-2.17 Rural telecommunications provider: A telecommunications provider which:

 (1) serves only rural exchanges of ten thousand or fewer access lines;

 (2) provides common carrier service to any local exchange carrier study area that does not include either: (a) any incorporated place of 10,000 inhabitants or more, or any part thereof, based on the most recently available population statistics of the Bureau of the Census; or, (b) any territory, incorporated or unincorporated, included in an urbanized area, as defined by the Bureau of the Census as of August 10, 1993;

 (3) provides telephone exchange service, including exchange access, to fewer than 50,000 access lines;

 (4) provides telephone exchange service to any local exchange carrier study area with fewer than 100,000 access lines; or

 (5) had less than 15 percent of its access lines in communities of more than 50,000 on February 8, 1996.

723-39-2.18 Service control point (SCP): A node in the signaling network to which informational requests for service handling (for example, routing) are directed and processed. The SCP contains both the service logic and the customer specific information necessary to process individual requests.

723-39-2.19 Signal transfer point (STP): A facility which provides the function of connecting signal links in order to

transfer appropriate signals from and between the various elements of a signaling network.

723-39-2.20 Signaling links: Transmission facilities in a signaling network which carry all out-of-band signaling traffic between the end office and signal transfer point, the tandem office and signal transfer point, the signal transfer point and service control point, and the signal transfer point and another signal transfer point.

723-39-2.21 Switch: A facility that provides the functionalities required to connect appropriate lines or trunks to a desired communications transmission path. These functionalities may include, but are not limited to: (1) recognizing service requests, (2) obtaining required call specific information, (3) data analysis, (4) route selection, (5) call completion or hand-off, (6) testing, (7) recording, and (8) signaling.

723-39-2.22 Tandem switch: A facility that provides the function of connecting trunks to trunks for the purpose of completing inter-switch calls.

723-39-2.23 Telecommunications: The transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

723-39-2.24 Telecommunications exchange service: The service within a telephone exchange, or within a connected system of telephone exchanges within the same exchange area operated to furnish to subscribers intercommunicating service of the character ordinarily furnished by a single exchange, and which is covered by the exchange service charge.

723-39-2.25 Telecommunications provider: Any provider of telecommunications exchange services.

723-39-2.26 Telecommunications service: The offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

723-39-2.27 Terminating provider: The telecommunications provider that serves the end-user who receives a local call.

723-39-2.28 Unbundling: The disaggregation of facilities and functions into multiple basic network products or services so they can be separately offered to other telecommunications providers in a manner that allows requesting providers to combine such elements in order to provide telecommunications services.

RULE 4 CCR 723-39-3. INTERCONNECTION.

723-39-3.1 All telecommunications providers shall interconnect directly or indirectly with the facilities and equipment of other telecommunications providers.

723-39-3.2 All telecommunications providers shall provide dialing parity to competing providers of telephone exchange service and telephone toll service, and shall permit all such providers to have nondiscriminatory access to telephone numbers, operator services, directory assistance, and directory listing, with no unreasonable dialing delays.

723-39-3.3 Telecommunications providers shall provide for the interconnection with the facilities and equipment of any requesting telecommunications provider:

723-39-3.3.1 for the transmission and routing of telephone exchange service and exchange access;

723-39-3.3.2 at any technically feasible point within the provider's network;

723-39-3.3.3 that is at least equal in quality to that provided by the provider to itself or to any subsidiary, affiliate, or any other party to which the provider interconnects; and,

723-39-3.3.4 (1) at rates, terms, and conditions that are just, reasonable, and nondiscriminatory; (2) in accordance with the rates, terms, and conditions established by the provider pursuant to contract, arbitration, or tariff; and, (3) consistent with the Commission's Rules Prescribing Principles for Costing and Pricing of Regulated Services of Telecommunications Service Providers (4 CCR 723-30).

723-39-3.4 Collocation: A telecommunications provider shall provide, pursuant to rates, terms, and conditions that are just, reasonable, and nondiscriminatory, for the physical collocation of equipment necessary for interconnection or access to unbundled network elements at the telecommunications provider's premises. A telecommunications provider may provide virtual collocation if the Commission determines that physical collocation is not practical for technical reasons or because of space limitations.

723-39-3.5 Each telecommunications provider shall be responsible for constructing and maintaining the facilities on its side of the point of interconnection unless the interconnecting providers agree to some other arrangement.

723-39-3.6 Each telecommunications provider shall construct and maintain its interconnection facilities in accordance with accepted telecommunications engineering standards and practices. Each terminating provider will make available to all originating providers all technical references to documents that provide the technical specifications of the terminating provider's interconnection interfaces. In no event shall a telecommunications

provider construct or maintain its interconnection facilities under terms and conditions different from the terms and conditions the provider offers to itself, its affiliates, or another telecommunications provider.

723-39-3.7 The Commission's quality of service rules at 4 CCR 723-2 shall apply to the provision of interconnection facilities.

723-39-3.8 Terminating telecommunications providers shall make all required interconnection facilities available within 90 days of a *bona fide* written request. No unreasonable refusal or delay, or discriminatory provision of service by a terminating provider shall be allowed.

RULE 4 CCR 723-39-4. COMPENSATION FOR TERMINATING LOCAL TRAFFIC.

723-39-4.1 For purposes of this rule, local calls originate at the customer network interface of the calling party's provider and terminate at the customer network interface of the called party's provider.

723-39-4.2 Except as provided in Rule 4.8, a terminating provider may charge the originating provider a termination fee for all local calls which originate on the originating provider's network and terminate on the terminating provider's network.

723-39-4.3 The termination fee shall be based on the costs associated with each network element (1) on the terminating provider's side of the point of interconnection and (2) used by the terminating provider to terminate the call.

723-39-4.4 If the originating provider is (1) interconnected to the terminating provider through the purchase of one or more unbundled elements owned by the terminating provider or a third provider or (2) uses one or more unbundled elements owned by

a the terminating provider or a third provider to originate the call:

723-39-4.4.1 The terminating provider shall charge the originating provider a termination fee in accordance with this rule, and

723-39-4.4.2 The provider of the unbundled elements shall charge the originating provider for the use of the unbundled elements.

723-39-4.5 If the terminating provider is: (1) interconnected to the originating provider through the purchase of one or more unbundled elements owned by the originating provider or a third provider; or, (2) uses one or more unbundled elements owned by a third provider to terminate the call:

723-39-4.5.1 The terminating provider shall charge the originating provider a termination fee in accordance with this rule, and

723-39-4.5.2 The provider of the unbundled elements shall charge the terminating provider for the use of the unbundled elements.

723-39-4.6 The termination fee, subject to Commission approval, may reflect either: (1) a usage-sensitive charge based on, for example, distance, duration, or time of day; (2) a flat charge based on, for example, capacity port charges reflecting either the trunk group size or the peak-use of interconnecting capacity; or, (3) any combination thereof or alternative mechanism.

723-39-4.7 To the extent Extended Area Service (EAS) agreements in existence on the effective date of these rules, conflict with this rule, the agreements must be modified to conform with the provisions of this Rule 4.

723-39-4.8 Until either (1) three years after the effective date of these rules or (2) six months after the implementation of a number portability database as contemplated in Rule 5, 4 CCR 723-34 (Rules on Local Number Portability and Administration), which ever occurs first, a terminating provider shall recover its costs associated with terminating local traffic through the offsetting of its reciprocal obligations with the originating providers. During this period, terminating and originating providers shall waive mutual recovery.

723-39-4.8.1 The terminating provider's costs associated with the termination of local calls may be recovered, as approved by the Commission, in the rates the terminating provider charges for services provided to its customers.

723-39-4.8.2 If the terminating provider provides the originating provider with dial tone, the terminating provider may charge the originating provider with the use of unbundled local switching for the generation of dial tone when the terminating provider terminates calls from the originating provider on the terminating provider's network.

RULE 4 CCR 723-39-5. OTHER INTERCOMPANY ARRANGEMENTS.

723-39-5.1 Telecommunications providers shall deal with other telecommunications providers in a good faith and cooperative manner.

723-39-5.2 All telecommunications providers are obligated to serve their customers in accordance with the Commission's rules.

723-39-5.3 All telecommunications providers shall provide reasonable access to poles, ducts, conduits, and rights-of-way when feasible and when access is necessary for other telecommunications providers to provide service. Upon application by a

telecommunications provider, the Commission shall determine any matters concerning reasonable access to poles, ducts, conduits, and rights-of-way upon which agreement cannot be reached, including but not limited to, matters regarding valuations, space, and capacity restraints, and compensation for access.

723-39-5.4 Telecommunications providers shall provide interconnecting telecommunications providers with both answer and disconnect supervision as well as all available call detail information necessary to enable proper customer billing.

723-39-5.5 Telecommunications providers shall be required to enter into mutual billing and collection agreements so that each telecommunications provider can accept other service provider telephone line number and other nonproprietary calling cards and can bill collect or third party calls to a number served by another provider.

723-39-5.6 Telecommunications providers shall offer the interoperability of nonoptional operator services between networks including, but not limited to, the ability of operators on each network to perform such operator functions as completing collect calls, third party calls, busy line verification calls, and busy line interrupt.

723-39-5.7 Telecommunications providers shall develop mutually agreeable and reciprocal arrangements for the protection of their respective customer proprietary network information.

723-39-5.8 Telecommunications providers shall cooperate in developing and implementing procedures for repair service referrals so that trouble reports are directed to the correct provider or providers.

723-39-5.9 Each telecommunications provider shall offer, in a nondiscriminatory manner pursuant to contract or tariff, the

necessary operational support to enable other certified telecommunications providers the opportunity to provide their customers quality of service as is available to the telecommunications provider's customers, consistent with 4 CCR 723-2 (Rules Regulating Telecommunications Service Providers and Telephone Utilities). Such contracts or tariffs shall be approved by the Commission and available for review pursuant to Commission order.

723-39-5.10 Telecommunications providers shall make available access to technically reasonable, non-proprietary, as determined by the Commission, signaling protocols used in the routing of local and interexchange traffic; including signaling protocols used in the query of call processing databases such as 800 Database Service, Alternate Billing Service (ABS), and Line Information Data Base (LIDB); and shall make available the signaling resources and information necessary for the routing of local and interexchange traffic.

723-39-5.11 Telecommunications providers shall be prohibited from interfering with the transmission of signaling information between customers and other telecommunications providers in a manner that is injurious to network integrity or that results in fraud. This shall not preclude a telecommunications provider from blocking specific signaling information to the extent required by the end-user's service (e.g., CLASS services).

723-39-5.12 White Pages.

723-39-5.12.1 Each telecommunications provider certified before February 8, 1996 ("White Pages provider"), shall cause the customer information (i.e. name, address, and telephone number) of all customers within the local calling area served by the provider regardless of whether the customer subscribes to the telecommunications services of that particular provider, to be

published in a "White Pages" telephone directory. Upon Commission approval, a different telecommunications provider may assume the responsibilities identified in this rule.

723-39-5.12.2 Each "White Pages" provider shall cause each competing provider to receive one "White Pages" telephone directory for each access line the competing provider serves in the "White Pages" provider's operating area.

723-39-5.12.3 Each competing telecommunications provider shall, in turn, cause a "White Pages" telephone directory to be delivered to each of its customers (one directory per access line purchased).

723-39-5.12.4 Each telecommunications provider shall be responsible to provide to the "White Pages" provider the information required to adequately list all subscriber's information (i.e. name, address, and telephone number) in the "White Pages" telephone directory. This information will be provided in a mutually agreeable format.

723-39-5.12.5 Each "White Pages" provider shall offer premium listings in its "White Pages" telephone directory to competing telecommunications providers' subscribers.

723-39-5.12.6 Each "White Pages" provider shall provide competing telecommunications providers space in the customer guide pages of the "White Pages" telephone directory for the purpose of notifying customers how to reach competing providers to: (1) request service; (2) contact repair service; (3) dial directory assistance; (4) reach an account representative; (5) request buried cable local service; and, (6) contact the special needs center for customers with disabilities.

723-39-5.12.7 All parties involved shall abide by the Commission's rules on privacy and the handling of customer proprietary network information.

RULE 4 CCR 723-39-6. UNBUNDLING.

723-39-6.1 Each incumbent telecommunications provider shall provide, to any requesting telecommunications provider for the provision of a telecommunications service, nondiscriminatory access to essential facilities or functions. An incumbent telecommunications provider shall provide such unbundled essential facilities or functions in a manner that allows requesting providers to combine such facilities or functions in order to provide such telecommunications service.

723-39-6.2 The following network elements are essential facilities or functions:

- 723-39-6.2.1 Loop;
- 723-39-6.2.2 Local Switching;
- 723-39-6.2.3 Common Transport Links;
- 723-39-6.2.4 Dedicated Transport Links;
- 723-39-6.2.5 Local and Toll Tandem Switching;
- 723-39-6.2.6 Operator Systems;
- 723-39-6.2.7 Signaling Links;
- 723-39-6.2.8 Signal Transfer Points; and
- 723-39-6.2.9 Access to each Service Control Point via Signal Transfer Points.

723-39-6.3 Notwithstanding Rule 6.1 and 6.2, incumbent telecommunications providers are not required to unbundle an element that the provider: (1) does not offer customers as part of a bundled service; or, (2) exclusively offers the element as part of

a bundled service through buying the element from another provider and reselling it.

723-39-6.4 A facilities-based telecommunications provider that provides the sole loop to a customer's premises shall offer that loop as an unbundled network element. For purposes of this rule, an alternate provider's loop need not be in actual use to be considered a second loop to a customer premises.

723-39-6.5 A detailed record of all requests for unbundling shall be maintained by the providers requesting such unbundling and filed quarterly with the Commission. This information shall contain the name of the requesting person, the date of the request, the specific type of unbundling requested, the provider's planned and actual response date, and the provider's response.

RULE 4 CCR 723-39-7. PROCESS AND IMPUTATION.

723-39-7.1 Interconnection.

723-39-7.1.1 Except as provided in Rule 9 below, on the first day after the effective date of these rules, each incumbent telecommunication provider shall file with the Commission tariffs effective on thirty days notice that establish rates, terms, and conditions for interconnection.

723-39-7.1.2 Within thirty days after receiving operating authority, each telecommunications provider certified after the effective date of these rules shall file with the Commission tariffs effective on thirty days notice or, if applicable, price lists, that establish rates, terms, and conditions for interconnection.

723-39-7.2 Termination of Local Traffic.

723-39-7.2.1 Except as provided in Rule 9 below, pursuant to Rule 4.8, each telecommunications provider shall, on the

first day after the time period identified in Rule 4.8, file with the Commission tariffs effective on thirty days notice that establish rates, terms, and conditions for the termination of local exchange traffic.

723-39-7.2.2 Within thirty days after receiving operating authority, each telecommunications provider certified after the period identified in Rule 4.8 concludes shall file tariffs effective on thirty days notice or, if applicable, price lists, with the Commission establishing rates, terms, and conditions for the termination of local exchange traffic.

723-39-7.3 Unbundling.

723-39-7.3.1 Except as provided in Rule 9 below, within 30 days after the effective date of these rules, each incumbent telecommunication provider shall file with the Commission tariffs effective on thirty days notice that establish rates, terms, and conditions for the sale of unbundled network elements.

723-39-7.3.2 Within thirty days after designation as an incumbent provider, each telecommunications provider certified after the effective date of these rules shall file with the Commission tariffs effective on thirty days notice or, if applicable, price lists, that establish rates, terms, and conditions for the sale of unbundled network elements.

723-39-7.4 White Pages.

723-39-7.4.1 Except as provided in Rule 9 below, each "White Pages" provider shall file with the Commission "White Pages" telephone directory tariffs within 30 days of a competing telecommunications provider receipt of operating authority within the provider's operating area. Such tariffs shall establish the rates, terms, and conditions for the transfer of customer information, the publication of "White Pages" telephone directories

for the competing provider, the publication of customer guide information for the competing provider, and the publication of premium directory listings for the competing provider's customers.

723-39-7.4.2 When determining the just and reasonable rate the "White Pages" provider may charge a competing telecommunications provider, the Commission may consider, where applicable, the compensation arrangement that the "White Pages" provider has with its publisher.

723-39-7.5 Tariffs. Each tariff filed pursuant to this Rule 7 shall be reviewed by the Commission on a case-by-case basis. The telecommunications provider filing the tariff shall have the burden of proving that any proposed rates, terms, or conditions are consistent with the following:

723-39-7.5.1 Rates shall be cost-based, just, and reasonable, and may include a reasonable profit;

723-39-7.5.2 Rates, terms, and conditions shall be nondiscriminatory and competitively neutral;

723-39-7.5.3 Rates, terms, and conditions shall be established to promote a competitive telecommunications marketplace while protecting and maintaining the wide availability of high quality telecommunications service; and,

723-39-7.5.4 Rates shall be designed so that products and services that have been specifically deregulated by statute, rule, or Commission order are not subsidized by products or services that are subject to regulation by the Commission.

723-39-7.6 Imputation.

723-39-7.6.1 As applicable, each telecommunications provider shall impute its rates for interconnection, the termination of local traffic, unbundled network elements, and "White Pages" directory listings into the rates of its own services in accordance

with 4 CCR 723-30 (Rules Prescribing Principles for Costing and Pricing of Regulated Services of Telecommunications Service Providers).

723-39-7.6.2 With respect to imputation associated with the rates for unbundled network elements, imputation shall only be required to the extent the unbundled network element is a bottleneck monopoly input. The fact that an element is defined as an essential facility or function is not conclusive evidence that it is or is not a bottleneck monopoly input.

RULE 4 CCR 723-39-8. NEGOTIATION, MEDIATION, AND ARBITRATION.

723-39-8.1 Nothing in Rule 7 shall be construed to limit a telecommunications provider's ability to reach a negotiated, mediated, or arbitrated agreement with respect to the rates, terms, and conditions associated with interconnection, the termination of local traffic, the purchase of an unbundled network element, or publication of a "White Pages" directory. Such agreements shall not be inconsistent with the rates, terms, or conditions contained in a telecommunications provider's currently effective tariff, and will be processed according to the applicable Commission Rules of Practice and Procedure.

723-39-8.2 All agreements for interconnection, the termination of local traffic, the purchase of an unbundled network element, or publication of a "White Pages" directory shall be submitted to the Commission for approval and will be processed according to the applicable Rules of Practice and Procedure.

RULE 4 CCR 723-39-9. EXEMPTION FOR RURAL TELECOMMUNICATIONS PROVIDERS.

723-39-9.1 Rules 3, 4, 5.4 through 5.10, 5.12, 6, 7, and 8 shall not apply to rural telecommunications providers until: (1) such company has received a *bona fide* request for interconnection, the termination of local traffic, the purchase of an unbundled network element, or publication of a "White Pages" directory; and, (2) such request is deemed by the Commission to be technically feasible and not unduly economically burdensome.

723-39-9.2 A telecommunications provider making such a *bona fide* request shall submit a notice of its request to this Commission.

723-39-9.2.1 The Commission shall conduct a hearing for the purpose of determining whether to terminate the rural telecommunications provider's exemption under 9.1.

723-39-9.2.2 The Commission shall determine within 120 days after it receives notice of the request that such termination of the exemption is technically feasible, is not unduly economically burdensome, and is consistent with the state and federal universal service requirements.

723-39-9.2.3 Upon termination of an exemption, the Commission shall establish an implementation schedule for compliance with the request.

723-39-9.3 A rural telecommunications provider with fewer than 2 percent of the nation's subscriber lines installed in the aggregate nationwide may file an application with the Commission for a suspension, modification, or for the specific exemption pursuant to this Rule 9 of certain telephone exchange service facilities specified in such application. The Commission may grant such

application to the extent it is necessary and for such duration, as it determines:

723-39-9.3.1 (1) to avoid a significant adverse economic impact on users of telecommunications services generally; (2) to avoid imposing a requirement that is unduly economically burdensome; or, (3) to avoid imposing a requirement that is technically unfeasible; and

723-39-9.3.2 is consistent with the public interest, convenience, and necessity.

723-39-9.4 The Commission shall act upon such application filed pursuant to Rule 9.3 within 180 days after its receipt. Pending such action, the Commission may suspend enforcement of the requirement or requirements to which the application applies with respect to the provider or providers filing such application.

RULE 4 CCR 723-39-10. DISPUTE RESOLUTION. At any time when a disagreement arises between providers regarding the provision of interconnection or unbundling under these rules, either party may file a complaint with the Commission.

RULE 4 CCR 723-39-11. VARIANCE OR WAIVER. The Commission may permit a variance or waiver from these rules, if not contrary to law, for good cause shown where compliance is impracticable, impossible, or unreasonable.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF PROPOSED RULES)
REGARDING IMPLEMENTATION OF)
§§ 40-15-101 ET SEQ. -- REQUIRE-)
MENTS RELATING TO INTERCONNEC-)
TION AND UNBUNDLING.)

DOCKET NO. 95R-556T

COMMISSION DECISION GRANTING IN PART, AND DENYING IN PART,
APPLICATIONS FOR REHEARING, REARGUMENT, OR RECONSIDERATION
AND ADOPTING RULES

Mailed Date: April 25, 1996
Adopted Date: April 25, 1996

I. BY THE COMMISSION:

A. Statement

1. This matter comes before the Commission for consideration of applications for rehearing, reargument, or reconsideration ("RRR") to Decision No. C96-347, issued on April 1, 1996. In that decision, we adopted, subject to applications for RRR, rules setting forth interconnection and unbundling requirements for telecommunications providers. Pursuant to the provisions of § 40-6-114, C.R.S., a number of parties filed applications for RRR including: U S WEST Communications, Inc. ("USWC"); AT&T Communications of the Mountain States, Inc. ("AT&T"); TCI Communications, Inc., Teleport Communications Group Inc., and Sprint Communications Company L.P. ("TCI et al."); MFS Intelenet of Colorado, Inc. ("MFS"); MCI Telecommunications Corporation ("MCI"); and the Colorado Independent Telephone Association ("CITA"). Now being duly advised in the premises, we will grant the applications for RRR, in part, and deny them in part.

2. The applications, in large measure, reiterate arguments made in previous comments in this proceeding. We addressed many of these arguments in Decision No. C96-347. Since it is unnecessary to restate our previous rulings here, the present discussion, for the most part, specifically addresses those points on which we have modified the rules or on which we believe additional clarification is helpful.

B. Rule 3.2--IntraLATA Dialing Parity

1. USWC, in its request for reconsideration, suggests that we modify Rule 3.2¹ (telecommunications providers shall provide dialing parity to competing providers of telephone exchange service and telephone toll service) to reflect the provisions of § 271(e)(2)(B), C.R.S., of the Telecommunications Act of 1996 ("Act").² That section generally provides that a state may not require a Bell Operating Company, such as USWC, to implement intraLATA toll dialing parity before that company has been granted authority to provide interLATA services originating in the state, or before three years after the date of enactment of the Act (i.e., February 8, 1996). We agree with USWC's interpretation of § 271(e)(2)(B), C.R.S.

2. However, we will not modify the rule as suggested. We note that Rule 3.2 is virtually identical to § 251(b)(3), C.R.S., of the Act. As such, the rule imposes the same duties with respect

¹ Attachment A to Decision No. C96-347.

² Public Law No. 104-104, 110 Stat. 56 (1996) (to be codified at 47 U.S.C. § 151, et seq.).

to dialing parity as imposed in the Act. We acknowledge the limitations upon state authority stated in § 271(e)(2)(B), C.R.S., and note that it is not the intent of Rule 3.2 to require USWC to implement intraLATA toll dialing parity in contravention of those provisions. However, the federal dialing parity requirement is not limited to intraLATA toll dialing parity as described by USWC. With this clarification, we find that it is unnecessary to amend Rule 3.2 as suggested by USWC.

C. Rules 8.1 and 8.2--Negotiation, Mediation, and Arbitration

1. Rules 8.1 and 8.2 state that even though providers are required to file interconnection and unbundling tariffs, such providers are still permitted to reach interconnection agreements pursuant to negotiation, mediation, or arbitration.³ The rules further provide that such agreements may not be inconsistent with the rates, terms, or conditions contained in a provider's currently effective tariff. Finally, the rules state that interconnection agreements shall be submitted for approval by the Commission, and that the Commission shall review submitted agreements in accordance with the Rules of Practice and Procedure, 4 Code of Colorado Regulations 723-1. USWC and AT&T object to these provisions.

2. First, these parties suggest that the requirement that privately negotiated agreements may not be inconsistent with filed

³ Section 252 of the Act specifies procedures by which providers may enter into binding interconnection agreements through negotiation, mediation, or arbitration.